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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4680 OF 2007

Dr. Writer's Food Products Pvt. Ltd. ... Petitioner

Versus

The Union of India and Ors. ... Respondents

Mr. Darius Shroff, Sr. Counsel with Mr. Sujay Kantawala, Mr. Vinay Ansurkar and Mr. Vinod Kothari i/by M/s. Apex Law Partners for Petitioner.

Dr. (Mrs) Poornima Advani with Mr. K.J. Kandpile for Respondents.

CORAM: F.I. REBELLO &
J.P.DEVADHAR,JJ.
DATED: 19TH JULY,2007

P.C.:

. Rule. Heard forthwith.

. The Petitioner approached this court to challenge the order of pre deposit and subsequent order whereby the application for modification was rejected.

. The learned counsel has produced before us a chart to show that in respect of 6 show cause notices for the period between 31.10.1996 and 24.10.1998 CIGAT vide order No.CI/3579-WZB/2001 dated 3.12.2001 dropped the demands by saying that Cocoa Liquor is not excisable. Similarly for the

three show cause notices for the period 3.3.2001 and 31.3.2002 the Additional Commissioner dropped the demand vide Order Sr. No. 09/ADC/CEX/2004 dated 29.3.2004. In respect of the three show cause notices explanation is sought to be given that these were entries made by the employee without their knowledge of creating liability when in fact no duty was payable. These are in respect of the first show cause notice.

. There is also another show cause notice in respect of the sum of Rs.21 lakhs. That show cause notice is in no way concerned with the earlier show cause notices.

. In our opinion, considering the facts and circumstances, the amount directed to be deposited as a condition of hearing the appeal is reduced to sum of Rs. 21 lakhs. Petitioner is granted time of eight weeks to deposit the said amount. If the amount is deposited, the appeal to be heard. On failure to deposit the amount, appeal to be dismissed on the ground of non deposit.

. Rule made absolute accordingly. No order as to costs.

(J.P.DEVADHAR, J.) **(F.I.REBELLO, J.)**